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and TWO JINN, INC.

12 UNITED STATES DISTRICT COURT
13
14 NORTHERN DISTRICT OF CALIFORNIA
15
16 SAN FRANCISCO DIVISION

17 IN RE CALIFORNIA BAIL BOND
18 ANTITRUST LITIGATION

19
20 THIS DOCUMENT RELATES TO:
21 ALL ACTIONS
22

Master Docket No. 19-cv-00717-JST

**DEFENDANTS' JOINT OPPOSITION TO
PLAINTIFFS' JOINT MOTION FOR
APPOINTMENT OF INTERIM CLASS COUNSEL**

1 Plaintiffs jointly have filed a motion to appoint Lief, Cabraser, Heimann & Bernstein LLP as
 2 Interim Lead Class Counsel, and Public Counsel, Towards Justice, Justice Catalyst Law, the National
 3 Consumer Law Center, Hammond Law P.C., and Goldstein Borgen Dardarian & Ho as members of
 4 an Executive Committee of Interim Class Counsel. (ECF 30.) Defendants respectfully submit that
 5 there is no showing of the requisite need for this relief at this time.

6 An appointment under Rule 23(g)(3) is designed to alleviate discord and confusion when
 7 numerous similar class actions are pending, or when there is a need to appoint lead counsel among a
 8 large number of attorneys competing to represent the plaintiffs. Here, there is only one pending action,
 9 as the *Crain* and *Breaux* cases have been consolidated (ECF 29), and one set of counsel. There is no
 10 discord or competing counsel. *See Imran v. Vital Pharm., Inc.*, No. 18-CV-05758-JST, 2019 WL
 11 1509180, at *10 (N.D. Cal. Apr. 5, 2019) (“The Court concludes that approval of this proposal [to
 12 appoint interim class counsel] is premature.”) (Tigar, J.).

13 Rule 23(g)(3) provides: “The court *may* designate interim counsel to act on behalf of the
 14 putative class before determining whether to certify the action as a class action.” (Emphasis added).
 15 The rule “authorizes the court to designate interim counsel . . . *if necessary* to protect the interests of
 16 the putative class.” Fed. R. Civ. P. 23(g) Advisory Committee’s Notes, 2003 amend (emphasis added).
 17 The Notes further observe: “Ordinarily, [pre-certification] work is done by the lawyer who filed the
 18 action,” but “[i]n some cases, however, *there may be rivalry or uncertainty* that makes formal
 19 designation of interim counsel appropriate.” *Id.* (emphasis added). Courts in this District thus have
 20 regularly rejected requests to appoint interim class counsel under similar circumstances. *See, e.g.,*
 21 *Imran*, 2019 WL 1509180, at *10; *Letizia v. Facebook Inc.*, No. 16-CV-06232-TEH, 2017 WL
 22 1477158, at *3 (N.D. Cal. Apr. 25, 2017); *In re Seagate Tech. LLC Litig.*, No. 16-CV-00523-RMW,
 23 2016 WL 3401989, at *3-4 (N.D. Cal. June 21, 2016); *In re Nest Labs Litig.*, No. 3:14-cv-01363-BLF,
 24 2014 U.S. Dist. LEXIS 115596, at *5 (N.D. Cal. June 24, 2014).

25 Plaintiffs identify no actual or potential conflict or rivalry among the firms seeking
 26 appointment, nor any other threat to the putative class that the appointment of interim counsel would
 27 protect. Counsel in *Crain* and *Breaux* are already unified, and they shortly will be jointly filing a
 28 consolidated complaint. Like all attorneys for would-be class representatives, Plaintiffs’ counsel can

1 still conduct discovery, file motions, seek class certification, and perform all other litigation tasks
 2 *without* being designated “interim class counsel.” Thus, it is not clear what purpose such an
 3 appointment would serve “other than merely to maintain the status quo.” *In re Nest Labs Litig.*, 2014
 4 U.S. Dist. LEXIS 115596, at *5.¹ The Motion therefore should be denied at this time.

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 7 Dated: May 15, 2019

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 28 ¹ Defendants expressly reserve their right to challenge the adequacy of any counsel that seeks
 appointment as class counsel under Rule 23(g) in conjunction with a class certification motion.

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14 **ATTESTATION PURSUANT TO CIVIL L.R. 5-1(i)(3)**

15 Pursuant to Civil Local Rule 5-1(i)(3), I attest under penalty of perjury that the concurrence in
16 the filing of this document has been obtained from all the signatories.

17 Executed on May 15, 2019, at San Francisco, California.

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21 /s/ Beatriz Mejia

Beatriz Mejia